

## **IC 35-46-7**

### **Chapter 7. Offenses Against Persons Receiving Care**

## **IC 35-46-7-1**

### **"Health care provider"**

Sec. 1. As used in this chapter, "health care provider" means:

- (1) a hospital licensed under IC 16-21;
- (2) a health facility licensed under IC 16-28;
- (3) a housing services establishment that is required to file a disclosure statement under IC 12-15;
- (4) a continuing care retirement community that is required to file a disclosure statement under IC 23-2-4;
- (5) a home health agency licensed under IC 16-27;
- (6) a hospice licensed under IC 16-25;
- (7) an entity that provides licensed or certified health care professionals to:
  - (A) a health care provider; or
  - (B) a person who is in need of, or receives, professional health care services;
- (8) a community mental health center (as defined in IC 12-7-2-38);
- (9) a private psychiatric hospital licensed under IC 12-25;
- (10) a state institution (as defined in IC 12-7-2-184); or
- (11) a community residential facility for the developmentally disabled that is licensed under IC 12-28-5.

*As added by P.L.139-2002, SEC.1.*

## **IC 35-46-7-2**

### **Excluded transactions**

Sec. 2. This chapter does not apply to the following:

- (1) A gift or donation of money or other asset given to:
  - (A) a health care provider in the corporate name of the health care provider; or
  - (B) a health care provider that is organized under Section 501(c)(3) of the Internal Revenue Code.
- (2) A gift or loan of money or other asset given by a person who receives services from a health care provider to a member of the person's family who:
  - (A) is employed by a health care provider; or
  - (B) owns, wholly or jointly, a health care provider.
- (3) A bequest of personal property or devise of real property made in an executable will as described in IC 29-1-5-5 to a health care provider or an owner, employee, or agent of a health care provider.
- (4) The purchase of a security (as defined in IC 23-2-1-1) that is traded on a national or regional exchange.
- (5) A gift or gratuity, not exceeding five hundred dollars (\$500) in the aggregate per year per person receiving services from the health care provider, to an employee of a health care provider.
- (6) A gift or donation of money or other asset given to purchase

or otherwise acquire a product, service, or amenity for the use, entertainment, or enjoyment of persons receiving services from a health care provider.

*As added by P.L.139-2002, SEC.1.*

### **IC 35-46-7-3**

#### **Regulated transactions; requirement that transaction be executed in writing; penalty**

Sec. 3. (a) The following transactions are subject to the requirements of subsection (b):

(1) A gift, a donation, a loan, or an investment from a person who receives services from a health care provider to:

(A) the health care provider; or

(B) an owner, employee, or agent of the health care provider.

(2) A loan or an investment from a person who receives services from a health care provider to the health care provider in the corporate name of the health care provider.

(b) A transaction under subsection (a) must be executed by a competent person (including a person other than the health care provider exercising a durable power of attorney on behalf of the donor) in writing and witnessed by two (2) disinterested parties. Each witness shall sign a document that describes the transaction in the presence of:

(1) the person who makes the transaction; and

(2) the other witness.

(c) A health care provider, or an owner, an employee, or an agent of a health care provider, who:

(1) receives a gift, a donation, a loan, or an investment from a person who receives services from a health care provider; and

(2) fails to comply with the requirements of subsection (b);

commits a Class A infraction. Without regard to the amount of the transaction, the court that imposes the penalty for the infraction violation may, upon the request of the prosecuting attorney, order the person to return assets or repay money received in violation of this section, plus interest from the date of the transaction, to the person who made the gift, donation, loan, or investment. In addition, if the court finds that the person knowingly violated the requirements of subsection (b), the court may order the person to pay treble damages and reasonable attorney's fees.

*As added by P.L.139-2002, SEC.1.*